

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STEVEN JAY HARE,

Defendant-Appellant.

UNPUBLISHED

January 29, 2002

No. 226396

Saginaw Circuit Court

LC No. 99-016938-FH

Before: Sawyer, P.J., and O'Connell and Zahra, JJ.

PER CURIAM.

Defendant appeals as of right his convictions of malicious destruction of a building over \$100, MCL 750.380, and larceny in a building, MCL 750.360, entered after a jury trial. Defendant was sentenced to two years' probation, with thirty days in jail, and was ordered to pay \$2,715 in restitution. We affirm.

Thomas Koski testified that he rented an apartment to defendant. At the time defendant and his family took occupancy, the apartment had new carpeting, new paneling, new plumbing, and a new drop ceiling. Koski testified that he sent defendant a notice to quit because the rent was delinquent. Koski went to defendant's apartment and observed paint on the walls, blood and hair on the carpet, and a deer hide nailed to the wall. Defendant told Koski that he would pay for the damages. Koski returned after defendant was evicted, and found that the refrigerator had been removed from the unit. He also found a glass covering the bathroom sink drain and water overflowing onto the floor. Koski stated that he paid \$4,000 to repair the damages.

The preliminary examination testimony of Mark Symons, an unavailable witness, was read into the record. Symons testified that he saw defendant and defendant's wife loading a refrigerator onto a truck. Symons recognized the refrigerator as the one that was in defendant's apartment when defendant took occupancy.

Defendant testified that he lived in the apartment with his wife and their six-year-old son. He stated that when they took occupancy the carpeting was old and worn and the ceiling was damaged. He acknowledged that he hung the deer hide on the wall. He maintained that his son wrote on the walls with a crayon. Defendant denied that he placed the glass in the sink so that it caused water to overflow onto the floor. He also denied that he and his wife removed the refrigerator from the unit. The jury found defendant guilty as charged.

When reviewing a sufficiency of the evidence question, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. We do not interfere with the jury's role of determining the weight of the evidence or the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992); *People v Warren*, 228 Mich App 336, 343; 578 NW2d 692 (1998), modified 462 Mich 415; 615 NW2d 691 (2000). A trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

The elements of malicious destruction of a building are: (1) that the building or anything permanently attached to it belonged to someone other than the defendant; (2) that the defendant destroyed or damaged the building or anything permanently attached to it; (3) that the defendant committed the act knowing that it was wrong, and with the intent to damage or destroy the property; and (4) that the extent of the damage was over \$100. CJI2d 32.3.¹ This is a specific intent crime. Intent can be inferred from the facts and circumstances surrounding the offense. *People v Beaudin*, 417 Mich 570, 575; 339 NW2d 461 (1983).

The elements of larceny in a building are: (1) that the defendant took someone else's property; (2) that the defendant took the property without consent; (3) that the property was taken within the confines of a building; (4) that there was some movement of the property; (5) that the property was worth something at the time it was taken; and (6) that at the time the property was taken, the defendant intended to deprive the owner of it permanently. MCL 750.360; CJI2d 23.4; *People v Sykes*, 229 Mich App 254, 278; 582 NW2d 197 (1998).

Defendant argues that the evidence was insufficient to support his conviction of malicious destruction of property over \$100. We disagree and affirm. Koski's testimony, which the jury was entitled to accept, *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989), established that the apartment was in good repair when defendant took occupancy. Subsequently, Koski observed markings on the walls and damage to the carpet. Defendant offered to pay for the damage. This evidence supported an inference that defendant caused the damage, and that he knew the actions that resulted in the damage were wrong. *Beaudin, supra*; *Vaughn, supra*. After defendant was evicted, Koski found that a glass had been placed in the bathroom sink and that the bathroom was flooded. This evidence, coupled with evidence that Koski had been told by another tenant that defendant allowed water to run continuously, supported an inference that defendant intentionally forced the sink to overflow. *Beaudin, supra*; *Vaughn, supra*. Koski's testimony regarding the repair costs was sufficient to establish the damage element. *People v Hamblin*, 224 Mich App 87, 96; 568 NW2d 339 (1997). The evidence, viewed in a light most favorable to the prosecution, was sufficient to support defendant's conviction. *Wolfe, supra*.

Defendant argues that the evidence was insufficient to support his conviction of larceny in a building. We disagree and affirm. Symons' testimony, which the jury was entitled to

¹ The incident which resulted in the charge against defendant occurred in 1998, prior to the effective date of the amended version of MCL 750.380.

accept, *Marji, supra*, established that defendant and his wife removed a refrigerator from the premises. Koski testified that the refrigerator was in the apartment when defendant took occupancy, and that he did not give defendant permission to remove it. Koski indicated that the refrigerator was valued at \$300. The fact that defendant did not return the refrigerator supported an inference that he intended to deprive Koski of it permanently. *Vaughn, supra*. This evidence, viewed in a light most favorable to the prosecution, was sufficient to support defendant's conviction. *Sykes, supra; Wolfe, supra*.

Affirmed.

/s/ David H. Sawyer
/s/ Peter D. O'Connell
/s/ Brian K. Zahra